



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

www.deq.state.va.us

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

(804) 698-4000
1-800-592-5482

February 26, 2002

Virginia Department of Corrections
c/o Ian Frost, AICP, CEP
EEE Consulting, Inc.
POB 354
Montpelier, VA 23192

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: Joint Permit Application Number 01-1720
Kimberling Creek Dam Replacement, Bland Correctional Center, Bland County,
Virginia
Final VWP Individual Permit

Dear Mr. Frost:

Pursuant to the Virginia Water Protection (VWP) Permit Program Regulation 9 VAC 25-210-10 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217, the Department of Environmental Quality (DEQ) has enclosed the original VWP individual permit for the above-referenced project. The proposed project results in the permanent impact of approximately 1,916 square feet of stream channel and 26 square feet of non-tidal wetlands associated with Kimberling Creek in Bland County, Virginia.

The provisions and conditions contained therein according to § 401(a)(1) of the Clean Water Act requires that:

"Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge in the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act."

This permit is valid for 15 years from the date of issuance. No re-issuance or extension of the permit may occur as the permit term cannot exceed the maximum of 15 years.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 calendar days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, any owner under §§62.1-44.16, 62.1-44.17 and 62.1-44.19 of the State Water Control Law aggrieved by any action of the board taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the board. Said petition must meet the requirements set forth in §1.23(b) of the board's Procedural Rule Number 1 (9 VAC 25-230-10 et seq. of the Virginia Administrative Code). In cases involving actions of the board, such petition must be filed within 30 calendar days after notice of such action is mailed to such owner by certified mail.

If you have any questions, please contact Brenda Winn at (804) 698-4516.

Sincerely,



 Martin Ferguson
Director, Office of Water Permit Program Support

Enclosures: Permit Cover Page, Part I - Special Conditions, Part II - General Conditions

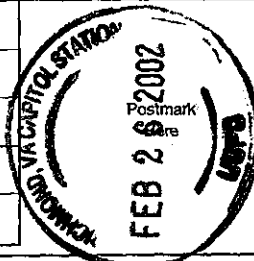
cc: Tom Leedom, U.S. Army Corps of Engineers
Jay Woodward, Virginia Marine Resources Commission
VWP permit file

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 1530 0001 4229 9487

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To: B. Winn, VA Dept. of Env. Quality
Street, Apt. No.; or PO Box No. 629 E. Main St.
City, State, ZIP+4 Richmond, VA 23219

PS Form 3800, May 2000

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

VA Dept. of Corrections
c/o Ian Frost
EEE Consulting, Inc.
POB 354
Northpelier, VA 23192

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery <u>2-28-02</u>
C. Signature <u>X Ian Frost</u>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7000 1530 0001 4229 9487

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

www.deq.state.va.us

VWP Individual Permit Number 01-1720

Effective Date: February 26, 2002

Expiration Date: February 26, 2017

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

(804) 698-4000
1-800-592-5482

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with § 401 of the Clean Water Act as amended (33 USC 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.


Permittee: Virginia Department of Corrections

Address: 6900 Atmore Drive, Richmond, Virginia 23225

Activity Location: Bland Correctional Center, Route 42 near the Bland/Giles County Line, Bland County, Virginia

Activity Description: 1) replace the existing dam on Kimberling Creek at the Bland Correctional Center with a new dam approximately 120 feet downstream of the existing structure; 2) place riprap at the ends of the new dam and around water intake structure; and 3) remove approximately one-half of the existing dam. No increase in water withdrawal is authorized by this permit. The proposed project will impact approximately 0.0006 of an acre of non-tidal, riverine emergent wetlands and approximately 125 linear feet of perennial stream channel.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions and Part II - General Conditions.


for Director, Department of Environmental Quality
Date February 25, 2002

Part I – Special Conditions:

Part A Authorized Activities:

1. This permit authorizes the fill of no more than 0.0006 of an acre of riverine emergent wetlands; the fill of no more than 35 linear feet of perennial stream channel; and the excavation of no more than 90 linear feet of perennial stream channel below ordinary high water, for the construction of a new dam downstream of the existing structure, the partial removal of the existing dam structure, and placement of riprap to stabilize stream banks. These impacts were discussed with the applicant's agent and detailed in the Joint Permit Application dated September 24, 2001, received on October 5, 2001 and deemed complete on October 18, 2001 (with exception of permit application fee).
2. No changes to the existing water intake structure are authorized by this permit, with the exception of riprap placement for stabilization purposes.
3. No increase to the quantity of water withdrawn is authorized by this permit.
4. The project activities, including any conditions and limitations, described in the Joint Permit Application and any supplemental materials submitted by the applicant, or authorized agent, shall be adhered to for the term of this permit.
5. The permittee shall notify Virginia Water Protection Permit Program at the Department of Environmental Quality - Central Office (804-698-4000) of any additional impacts to State waters, including wetlands, associated with this project. Any additional impacts to State waters, including wetlands, shall be subject to individual permit review or modification of this permit, and compensatory mitigation may be required.
6. This permit is valid for **15 years** from the date of issuance. Re-issuance of the permit may be necessary if any portion of the authorized activities or any permit requirement (including compensatory mitigation provisions) has not been completed. The original permit term in addition to the extension, cannot exceed the **maximum of 15 years**. The extension may be requested through written notification to the Department of Environmental Quality Central Office, provided that there are no changes in the authorized activities.
7. This permit does not satisfy the need to obtain a Virginia Pollutant Discharge Elimination System (VPDES) permit for outfall structures.

Part B Standard Project Conditions:

1. The activities authorized by this permit shall be executed in a manner to minimize any adverse impact on stream beneficial uses, as defined in § 62.1-10(b) of the Code of Virginia.
2. The permittee shall employ measures to prevent spills of fuels, lubricants, or other pollutants into State waters.
3. All dredging and/or filling in State waters shall be accomplished in a manner that minimizes stream bottom disturbances and turbidity increases.
4. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the

primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows. Flows downstream of the project area shall be maintained to protect all uses.

5. All construction, construction access (for example, cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this permit.
6. Immediately downstream of the project area, water quality standards shall not be violated as a result of the construction activities.
7. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area stabilizes.
8. Any exposed slopes or streambanks must be stabilized immediately upon completion of the project at each water body. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
9. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters. Appropriate best management practices (BMP) shall be deemed suitable treatment prior to discharge into state waters.
10. No machinery may enter flowing waters, unless authorized by this permit.
11. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
12. Wet or uncured concrete shall be prohibited from entry into flowing surface waters.
13. All non-impacted surface waters within the project or right-of-way limits that are within 50 feet of any clearing, grading, or filling activities shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that these marked areas are surface waters where no activities are to occur.
14. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable measures to minimize soil disturbance to the maximum extent practical. Mats shall be removed as soon as the work is complete.
15. Temporary disturbances to wetlands during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to pre-construction conditions and planted or seeded with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote revegetation of temporarily disturbed wetland areas with wetland vegetation by the second year post-disturbance. All temporary fills shall be removed in their entirety and the affected area returned to pre-existing contours.

16. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into State waters, managed such that leachate does not enter State waters, and entirely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, stabilized within 30 days following removal of the stockpile, and restored to the original vegetated state.
17. In issuing this permit, the Board has not taken into consideration the structural stability of any proposed structure(s).

Part C Construction Monitoring:

1. Photo stations shall be established to document the construction activities within impact areas authorized by this permit. Photographs shall document the pre-construction conditions, activities during construction, and post-construction conditions within one week after completion of construction. Photographs shall be taken during construction at the end of the first, second, and twelfth months of construction, and then annually for the remainder of the construction project, if applicable. Photographs are not necessary during periods of no activity within impact areas.
2. Monitoring of water quality parameters shall be conducted during rerouting of the live streams through the new channels in the following manner:
 - a. A sampling station shall be located upstream and immediately downstream of the relocated channel;
 - b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken once every half hour for at least three readings at each station prior to opening the new channels;
 - c. After opening the new channel, temperature, pH and D.O. readings shall be taken once every half hour for at least three readings at each station within 24 hours of opening the new channel.

⊗ Data shall be submitted within one week of completing the activity.

Part D Required Notifications and Submittals:

1. All written communications required by this permit shall be submitted to the Department of Environmental Quality, Central Office at 629 East Main Street, Richmond, Virginia, 23219, Attn: Virginia Water Protection Permit Program. Please include the permit number on all correspondence.
2. Properly labeled photographs shall include the following information: date and time of the photograph, name of the person taking the photograph, photograph orientation, permit number, and identifying name/description of the photograph.
3. The DEQ shall be notified in writing by certified mail to the Virginia Water Protection Permit Program, Department of Environmental Quality - Central Office at 629 East Main Street, Richmond, Virginia, 23219 at least ten days prior to the start of activities authorized under this permit so that inspections of the project can be

planned, if deemed necessary. The notification shall include identification of the impact area and compensation site (if applicable) at which work will occur and a projected schedule for completing work at each permitted impact area and compensation site (if applicable).

4. The DEQ VWPP Program shall be notified in writing by certified mail to the same address given in D.3. above within 30 days following the completion of all activities in permitted impact areas authorized under this permit. The permittee shall report any fish kills or spills of fuels or oils immediately upon discovery. If spills or fish kills occur between the hours of 8:15 AM to 5:00 PM Monday through Friday, DEQ shall be notified (804-698-4000); otherwise, the Department of Emergency Services shall be notified at 1-800-468-8892.

5. Violations of State water quality standards shall be reported within 24 hours to the Virginia Water Protection Permit Program at DEQ (804-698-4000).

6. The permittee shall notify the board in writing when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by the board.

7. The permittee shall submit final Plans and Specifications for activities authorized by this permit prior to the beginning of each component construction, unless the final Plans and Specifications were previously submitted with the permit application. Construction shall be performed in accordance with the submitted Plans and Specifications.

8. After construction begins, construction monitoring reports for the impact area(s) shall be submitted to the board within 30 days of each monitoring event. The reports shall include, at a minimum, the following:

- A written narrative stating when work started in the identified impact area, where work was performed, what work was performed, and what work was completed.
- Properly labeled photographs showing representative construction activities including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.

9. All reports required by this permit and other information requested by the board shall be signed by the applicant or a person acting in the applicant's behalf, with the authority to bind the applicant. A person is a duly authorized representative only if:

- The authorization is made in writing by a person described above; and
- The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
- If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

not done
by cert. mail -
rec'd email
1/23/04

see I.C.1.
rec'd 1/23/04

has not
been included
in comments

10. All submittals required by this permit shall contain the following signed certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation

Part E *Stream Modification and Streambank Protection:*

1. If stream channelization or relocation is required, all work in State waters shall be performed completely "in the dry", unless otherwise authorized by this permit. This shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The new stream channels shall be constructed in accordance with the typical sections submitted with the application. A low flow channel shall be constructed within the channelized or relocated area. The centerline of the low flow channel shall meander, to the extent possible, to mimic natural stream morphology. The rerouted stream flow must be fully established before construction activities in the original stream can begin.
2. Redistribution of existing stream substrate for erosion control purposes is prohibited.
3. All material removed from the stream substrate shall be disposed of in an approved upland area.
4. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
5. Riprap apron for all intakes and outfalls shall be designed in accordance with Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
6. For streambank protection activities, structures and backfill shall be placed as close to the streambank as practical. No material shall be placed in excess of the minimum necessary for erosion protection.
7. All streambank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practical.
8. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

Part F *Dredging/Excavation:*

1. Dredging and excavation shall be accomplished to minimize disturbance of the bottom and minimize turbidity levels in the water column.
2. Dredging and excavation shall be limited to the minimum necessary to conduct the permitted activities.

3. The double handling of dredged material in State Waters shall not be permitted.

Part G Water Withdrawal

1. If total surface water withdrawals exceed 180,000 gallons per day on average in any month, the permittee shall report the withdrawals to DEQ by January 31st of the following year in accordance with 9 VAC 25-200-10 et seq.. Reporting shall follow the notification provisions of Section D of these permit conditions.

Part H On-Site Compensation:

Compensation Site Development

Minor mod 3/29/05

1. The permittee shall compensate for the 0.0006 of an acre of riverine emergent wetland impacts through the natural re-establishment of vegetation within 100 feet of the riprap on the downstream side of the new structure (or from Station 10 + 65 to 11 + 65 on the survey baseline). #.1
2. If 0.0006 of an acre of riverine emergent wetlands are not established within the designated area (G.1 above) at the completion of the second monitoring year, the reasons for this failure shall be determined, and a corrective action plan, schedule, and monitoring plan (which may include, but is not limited to, the planting of native wetland species in the proximity of the project site) shall be submitted to the board for approval. All problems shall be corrected by the permittee.
3. Herbicides or algicides shall not be used in or immediately adjacent to the compensatory mitigation site or sites without prior authorization by the board.

Compensation Site Monitoring

4. The success of the compensatory mitigation shall be determined through inspection of the project area and photographic documentation of re-established riverine emergent wetlands on a 1:1 compensation ratio (0.0006 of an acre total). Photographs and site observations shall be made once from April through September of each monitoring year, and a brief, written summary report shall be submitted by October 31st of each monitoring year, for two consecutive monitoring years after completion of the project in it's entirety. Any alterations and maintenance conducted on the compensatory mitigation site shall be reported at this time. Invasive species occurrences and control of these occurrences shall also be reported at this time. The reports shall be submitted in accordance with the procedures described in Section D of these permit conditions.
5. The presence of noxious species shall be documented. If these noxious species jeopardizes the re-establishment of compensatory riverine emergent wetlands, the permittee shall submit a corrective action plan to address site problems and outline measures that will be taken to correct them. The corrective action plan will be subject to DEQ review and approval.

Part F Dredging/Excavation:

1. Dredging and excavation shall be accomplished to minimize disturbance of the bottom and minimize turbidity levels in the water column.
2. Dredging and excavation shall be limited to the minimum necessary to conduct the permitted activities.
3. The double handling of dredged material in State Waters shall not be permitted.

Part G Water Withdrawal

1. If total surface water withdrawals exceed 180,000 gallons per day on average in any month, the permittee shall report the withdrawals to DEQ by January 31st of the following year in accordance with 9 VAC 25-200-10 et seq.. Reporting shall follow the notification provisions of Section D of these permit conditions.

Part H On-Site Compensation:

Compensation Site Development

1. The permittee shall compensate for the 0.0006 of an acre of riverine emergent wetland impacts through the natural re-establishment of vegetation within 100 feet of the riprap on the downstream side of the new structure (or from Station 10 + 65 to 11 + 65 on the survey baseline). ~~4.1~~
2. If 0.0006 of an acre of riverine emergent wetlands are not established within the designated area (G.1 above) at the completion of the **third** monitoring year, the reasons for this failure shall be determined, and a corrective action plan, schedule, and monitoring plan (which may include, but is not limited to, the planting of native wetland species in the proximity of the project site) shall be submitted to the board for approval. All problems shall be corrected by the permittee.
3. Herbicides or algicides shall not be used in or immediately adjacent to the compensatory mitigation site or sites without prior authorization by the board.

Compensation Site Monitoring

4. The success of the compensatory mitigation shall be determined through inspection of the project area and photographic documentation of re-established riverine emergent wetlands on a 1:1 compensation ratio (0.0006 of an acre total). Photographs and site observations shall be made once from April through September of each monitoring year, and a brief, written summary report shall be submitted by October 31st of each monitoring year, for **three** consecutive monitoring years after completion of the project in its entirety. Any alterations and maintenance conducted on the compensatory mitigation site shall be reported at this time. Invasive species occurrences and control of these occurrences shall also be reported at this time. The reports shall be submitted in accordance with the procedures described in Section D of these permit conditions.

Part I Stream Mitigation/Restoration:

1. Stream mitigation shall be performed through restoration of stream bottom on at least a 1:1 basis and will occur by the removal of a portion of the existing dam structure (approximately 0.00 to 22.7 cubic yards), thus enhancing flow passage and restoring pool/riffle habitat. The restoration activities shall be coordinated with the Virginia Department of Game and Inland Fisheries and be performed in accordance with the Joint Permit Application and subsequent submittals, as approved by the board.
2. Stream bank slopes shall be stabilized to reduce stream bank erosion, where practical.
3. Stream mitigation monitoring shall be in a similar manner as that of the wetland mitigation monitoring and in accordance with the procedures described in Section D of these permit conditions.

Part II – General Conditions

- A. Duty to comply. The permittee shall comply with all conditions of the VWP permit. Nothing in this permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or re-issuance.
- B. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.
- C. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.
- D. VWP permit action.
 - 1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
 - 2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185.
 - 3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in A above, or for other reasons listed in 9 VAC 25-210-180.
- E. Inspection and entry. Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:
 - 1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
 - 2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit, and
 - 3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to provide information.

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;
 - b. The name of the individuals who performed the sampling or measurements;
 - c. The date and time the analyses were performed;
 - d. The name of the individuals who performed the analyses;
 - e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
 - f. The results of such analyses; and
 - g. Chain of custody documentation.

H. Reopener. This permit may be reopened to modify conditions to meet new regulatory standards duly adopted by the board. Cause for reopening a permit includes, but is not limited to when the circumstances on which the permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the permit was issued and thereby constitute cause for permit modification or revocation and re-issuance.

I. Compliance with state and federal law. Compliance with this permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other

penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

- J. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.
- K. Transferability. Except as provided for under automatic transfer, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new permittee. A permit shall be automatically transferred to a new permittee if:
 - 1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
 - 2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
 - 3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.
- L. Civil and criminal liability. Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.
- M. Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for the permittee to dredge, fill or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical or biological properties of surface waters, excavate in wetlands, or on or after October 1, 2001, conduct the following activities in a wetland:
 - 1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 - 2. Filling or dumping;
 - 3. Permanent flooding or impounding; or
 - 4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.
- N. Severability. The provisions of this permit authorization are severable.
- O. Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care shall

be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.